

REMARKS

In the Office Action dated July 28, 2004, the Examiner rejected all pending claims, 1-39. Specifically, the examiner rejected claims 1-2, 5-6, 10, 14, 15, 18, 19, 23, 27, and 36 under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (US2002/0032612) in view of Bong et al. (US2004/0084527). Claims 3-4, 16-17, 29, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al., Bong et al., and further in view of Stickler et al. (US2003/0220887). Claims 7-9, 11-13, 20-22, 24-26, and 33-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al., Bong et al., and further in view of Manduley et al. (US 5,043,908). Because the Examiner has failed to make a proper rejection under 35 U.S.C. § 103, the applicant respectfully submits that he has traversed the Examiner's rejections.

The Examiner rejected every claim, 1-39, under 35 U.S.C. § 103, utilizing at least Bong et al. as one of the cited references in each rejection. However, these rejections are fundamentally flawed as the published patent application of Bong et al. is not prior art to applicant's invention. Bong et al. can only be § 103 prior art under 35 U.S.C. § 102(e) which described patent applications as prior art if "the invention was described in – (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent" Applicant's patent application claims priority under 35 U.S.C. § 119(e) to provisional patent application 60/458,600 filed on March 28, 2003. Bong et al. was also filed on March 28, 2003. Therefore, Bong et al was not "filed in the United States before the invention by the applicant for patent." Therefore, applicant respectfully submits that each § 103 rejection

made by the Examiner is improper and that applicant has traversed all of the Examiner's rejections.


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: September 28, 2004

By:  _____
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